REMARKS

Double Patenting

The Examiner has provisionally rejected Claims 1-15 on the ground of nonstatutory obviousness-type double patenting over claims 1, 3, 4, 11-17, 21, and 22 of copending Application No. 10/561,210. Applicants respectfully traverse the rejection.

The present application claims priority from a provisional application (Serial No. 60/483,269) filed on 25 June 2003 and is presently pending as a national application from a PCT application (Serial No. PCT/US2004/019910) filed on 22 June 2004. It entered the national phase as a U.S. application on 16 December 2005. Similarly, the cited application (Serial No. 10/561,210) claims priority from a provisional application (Serial No. 60/483,271) filed on 25 June 2003 and is presently pending as a national application from a PCT application (Serial No. PCT/US2004/019905) filed on 22 June 2004. It similarly entered the national phase as a U.S. application on 16 December 2005. The cited application cannot serve as prior art against the presently pending application. Moreover, even when patents are issued from each application, the resulting patents will have the same term. As such, the entry of a terminal disclaimer would not modify the terms of the granted patents.

The Examiner has also provisionally rejected Claims 1-15 on the ground of nonsatutory obviousness-type double patenting over the claims of copending Application No. 11/817,245. Applicants respectfully traverse the rejection.

As previously noted, the present application claims priority from a provisional application (Serial No. 60/483,269) filed on 25 June 2003, is presently pending as a national application from a PCT application (Serial No. PCT/US2004/019910) filed on 22 June 2004, and entered the national phase as a U.S. application on 16 December 2005. The cited application (Serial No. 11/817,245) claims priority from a provisional application (Serial No. 60/663,133) filed on 18 March 2005 and is presently pending as a national application from a PCT application (Serial No. PCT/US2006/008368) filed on 9 March 2006. It entered the national phase as a U.S. application on 28 August 2007. The cited application cannot serve as prior art against the presently pending application. All of its relevant dates are subsequent to the

presently pending application's provisional application filing date and the PCT application filing date. Moreover, if a terminal disclaimer was entered into this application with regard to the cited application, it would have no bearing on the term of the present application – the term of a patent based upon the cited application is expected to lapse no sooner than two years after the term of any patent granted from the present application.

Claim Objections

The Examiner has objected to Claims 2, 6-8, 10, and 13, identifying errors that would have been obvious to persons skilled in the art. Applicants have amended the claims as requested by the Examiner.

Applicants request permission to amend the specification to correspond to these amendments. Notably, applicants are prepared to accept an Examiner's amendment to the relevant sections of the specification in an effort to expedite allowance of the present application.

Claim Rejections – Lorigan (EP 365 289)

The Examiner has rejected Claims 1, 2, 8, and 11-15 as being anticipated by, or in the alternative, obvious over Lorigan et al. (EP 365 289). Applicants respectfully traverse.

Applicants have amended Claims 1 and 13-15 to specify more clearly that the antioxidants useful in the present inventions are those antioxidant that do not have a tertiary alkyl-substituted aryl or phenolic group (Claims 1, 2, 8, 11-13 and 15) or that are not vulnerable to dealkylation in the presence of an acidic silanol condensation catalyst (Claim 14). As such, applicants have specified that the antioxidative element of the composition consist essentially of the desired physical characteristics. The applicants believe that the amendments effectively exclude the addition of any antioxidant having the offensive physical characteristics.

The Examiner contends that the cited reference teaches the use of antioxidants containing tertiary alkyl-substituted aryl or phenolic group. The present amendment excludes those antioxidants, effectively removing the cited reference as an anticipating reference. As such, the

applicants respectfully request the Examiner to withdraw the cited reference as no longer anticipatory.

The Examiner further contends that the cited reference may alternatively render the claims nonobvious. The cited reference teaches a composition comprising antioxidants containing tertiary alkyl-substituted aryl or phenolic group. The cited reference does not teach or provide a person skilled in the art motivation to provide any composition without an antioxidant containing tertiary alkyl-substituted aryl or phenolic group. There is no basis for concluding that the claims as presently amended are obvious in view of the cited reference. As such, the applicants urge the Examiner to withdraw the cited reference as support for an obviousness rejection.

Claim Rejections - 35 USC § 103 (a)

The Examiner has rejected Claims 1-6, 8, and 10-15 as obvious over Dammert et al. (U.S. Patent No. 6,005,055) in view of Maringer et al. (U.S. 4,343,733). The Examiner has also rejected Claims 1-5, 7, 8, and 10-15 as obvious over Blank et al. (U.S. Patent No. 6,441,097) in view of Maringer et al. (U.S. 4,343,733). Applicants respectfully traverse.

The present application differs significantly from the cited references. The present application yields a composition, a cable prepared therefrom, and a method for preparing the composition, which focuses on solving a particular problem arising when a silane-functionalized olefinic polymer, an acidic silanol condensation catalyst, and a broad range of antioxidants are mixed together – preventing the generation of a foul-smelling odor, a combustible gas, or both. In view of the problem, the present application teaches the selection of an antioxidant system consisting essentially of antioxidants (1) not having a tertiary alkyl-substituted aryl or phenolic group or (2) substantially free of substituents vulnerable to dealkylation in the presence of an acidic silanol condensation catalyst.

None of the cited references identifies the problem, teaches how to resolve the problem, or provides any motivation for a person skilled in the art to address the problem. Without an appreciation for the problem, the cited references are useless to a person skilled in the art for addressing the problem. The present invention identifies the problem and permits a person

skilled in the art to avoid the use of certain antioxidants by providing experimental data showing their improvement.

Essentially, the Examiner relies on Maringer to focus on identifying certain additives to prevent degradation of an insulation using a copper inhibitor in the presence of a copper wire. Armed with the teaching of the present application, the Examiner chooses to rely on Maringer to support the selection of oxalyl bis(benzylidene hydrazide) (OABH) out of scores of potential antioxidants. However, Maringer only teaches the use of OABH as a secondary additive in combination with a synergistic mixture for protecting polymers against heat degradation, comprising N,N'-disubstituted-p-arylene diamine, 1,2-dihydro-2,24-trialkyl quinoline and polymers thereof, and magnesium oxide, hydroxide, or carbonate. The Examiner provides no basis for choosing OABH in the absence of the other components of the Maringer teaching.

As such, applicants believe that the present application and the claims as presently amended are patentable over the cited references and urge the Examiner to allow the presently pending claims.

Acknowledgment – Claim 9

Applicants thank the Examiner for acknowledging the patentability of Claim 9 over the cited references.

In view of the above-described Amendments and Remarks, the applicants believe the pending application is in condition for allowance.

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Respectfully submitted,

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